



November 8, 2010

Water Docket

U.S. Environmental Protection Agency, Mailcode: 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Docket ID No. EPA-R03-OW-2010-0736

Dear Sir or Madam:

On behalf of the family farmers, ranchers, fishermen and rural community residents of the National Farmers Union (NFU), I am pleased to submit the following comments regarding the Environmental Protection Agency's (EPA) Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay.

NFU members seek practical solutions regarding water quality regulations and encourage the EPA to carefully consider reasonable standards related to the Chesapeake Bay TMDL. Farmers and ranchers continue to be among the best stewards of the land, and we support continued emphasis on voluntary compliance and incentive-based, cost-sharing programs currently working to minimize production agriculture's impact on our nation's water quality. NFU also supports programs and policy that are supported by peer-reviewed scientific data.

Current conservation practices in the Chesapeake Bay have been effectively improving water quality, but there is no doubt that additional water quality improvements are needed for the Chesapeake Bay and that agriculture has a role to play. A recent Conservation Effects Assessment Project (CEAP) draft report found that from 2003 until 2006, conservation practices in use on cultivated cropland are responsible for reducing total loads delivered to the Chesapeake Bay by 14 percent for sediment, 15 percent for phosphorus and 15 percent for nitrogen¹.

While good agronomic practices to control sediment and nutrients are utilized in the watershed, opportunity exists for even greater gains in sediment and nutrient reductions. According to the draft report, 26 percent of cultivated cropland acres still have excessive

¹ U.S. Department of Agriculture, Natural Resources Conservation Service. 2010. "Assessment of the Effects of Conservation Practices on Cultivated Cropland in the Chesapeake Bay Region." Washington, D.C., p. 7.

sediment loss, and about 81 percent of cultivated cropland acres require additional nutrient management to reduce nitrogen and phosphorus losses. The CEAP report recommends a suite of practices that includes both soil erosion control and consistent nutrient management. According to the CEAP report, both practices are required simultaneously to most effectively address soil erosion and nutrient loss².

NFU is concerned that, as it is currently written, compliance with TMDL regulations will create a hardship on family agricultural producers for compliance with state and federal water quality standards without the likelihood of increased environmental benefits. I raise this concern because EPA is proceeding with finalizing the TMDL by December 31, 2010, while acknowledging it has already outlined plans to update and refine modeling data and assumptions in 2011.³ If EPA knows modeling data will require updating in less than one year, this exposes agricultural producers to unnecessary and potentially disastrous regulation and uncertain environmental improvement.

Specifically, I am concerned that data inputs to the Scenario Builder tool will improperly allocate pollutant loads to various sectors in the watershed. We are concerned the tool makes inappropriate assumptions regarding nutrient management, and that it does not fully account for benefits of agricultural Best Management Practices (BMP) in place that are not cost-shared through government programs.

The draft Watershed Implementation Plan (WIP) developed by the state of Pennsylvania articulates similar concerns, saying that a “significant number of agricultural and other BMPs that have been implemented in Pennsylvania have not been ‘tracked’ and entered into the Chesapeake Bay Model.” The Pennsylvania WIP goes on to say “as much as 84 percent of some implemented BMPs have not been entered into the Bay model, resulting in potentially significant nutrient and sediment reductions not being accounted for in the reductions attributable to Pennsylvania.”⁴

I encourage greater cooperation specific to data collection and utilization between EPA and federal partners with an interest in Chesapeake Bay restoration, such as the U.S. Department of Agriculture and the U.S. Geological Survey, as well as relevant state agencies.

Finally, I am concerned that adequate public input was not provided in development of this tool. I strongly urge EPA to consider delay in implementing TMDL regulations until the public can adequately review all data inputs and assumptions. Until EPA can provide

² U.S. Department of Agriculture, Natural Resources Conservation Service. 2010. “Assessment of the Effects of Conservation Practices on Cultivated Cropland in the Chesapeake Bay Region.” Washington, D.C., p. 7.

³ Letter to Principal’s Staff Committee from EPA Region III Administrator Shawn Garvin, June 11, 2010.

⁴ Pennsylvania Watershed Implementation Plan, p. 73.

assurance that water quality data and assumptions are defensible, regulatory efforts in the Chesapeake Bay will likely be undermined by claims that the Agency has acted in a manner that is arbitrary and capricious. This problem can be corrected with the benefit of adequate public review.

Farmers and ranchers in the Chesapeake Bay watershed can be part of the solution to the Bay's water quality issues but, in order to be effective, policy must provide the correct combination of voluntary incentives and regulation. EPA is to be commended for grappling with the difficult policy questions associated with Chesapeake Bay restoration; however, I feel that more careful analysis should be done to avoid unintended consequences of improperly regulating agriculture in the watershed.

NFU continues to seek environmental solutions that are pragmatic and workable for agriculture, and that provide meaningful environmental benefits. NFU understands that protection of our rural environment is critically important to maintaining safe, livable communities. At the same time, we need to maintain a robust, viable agriculture sector which is the livelihood of rural America. I encourage EPA to seek balanced environmental solutions that can simultaneously promote both.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Johnson", written in a cursive style.

Roger Johnson
President

RJ:jp